

## PLANNED DEVELOPMENT PERMIT

<b>FILE NO.</b>	<b>PD15-013</b>
<b>LOCATION OF PROPERTY</b>	<b>South side of Quimby Road, approximately 1,200 feet west of Capitol Expressway (2140 Quimby Road)</b>
<b>ZONING DISTRICT</b>	<b>A(PD) Planned Development</b>
<b>GENERAL PLAN DESIGNATION</b>	<b>Mixed Use Neighborhood, Neighborhood/Community Commercial, Open Space, Parkland, and Habitat, Floating Park, Urban Village</b>
<b>PROPOSED USE</b>	<b>Planned Development Permit to allow the construction of 314,898 square feet of commercial/retail space, 250 single-family detached residences, and the removal of 134 trees (63 ordinance sized and 71 non-ordinance sized) on a 80.89-gross acre site</b>
<b>ENVIRONMENTAL STATUS</b>	<b>Determination of Consistency with the Addendum to the Evergreen East Hills Vision Strategy Environmental Impact Report, Resolution No. 73570 adopted on December 12, 2006.</b>
<b>OWNER/APPLICANT</b>	<b>Arcadia Development Co. P.O. Box 5368 San Jose, CA 95150</b>
<b>APPLICANT/ADDRESS</b>	<b>Gerry De Young, Ruth and Going, Inc. P.O. Box 26460 San Jose, CA 95159-6460</b>

### FACTS

The Director of Planning, Building, and Code Enforcement finds that the following are the relevant facts regarding this proposed project:

1. **Project Description.** This is a Planned Development Permit application to allow the construction of 314,898 square feet of commercial/retail space, 250 single-family detached residences, and the removal of 134 trees (63 ordinance sized and 71 non-ordinance sized) on a 80.89 gross acre site.
2. **Site Description.** The proposed project site is currently an undeveloped 81.0 acre lot. Eastridge Shopping Center is located to the north of the site, across Quimby Road. There is a small commercial/retail center to the north and east of the project site. There is a mobile home park east of the project site, across East Capitol Expressway as well. George Leyva Middle School, Meadowlands Park, and a second mobile home park are located south of the project site. There is a single-family residential neighborhood to the west of the project site.

3. **General Plan.** The General Plan Land Use/Transportation Diagram designation for this site are Mixed Use Neighborhood, Neighborhood/Community Commercial, Open Space, Parkland, and Habitat, Floating Park, and Urban Village.
4. **Zoning District.** The project site is located in the A(PD) Planned Development Zoning District, File No. PDC10-022 (Ordinance No. 29519), which was approved on December 16, 2014 to allow for the construction of up to 344,000 square feet of retail commercial uses, 250 residential dwelling units, approximately 17.2 acres of public parkland and subsequent subdivision.
  - a. **Land Use.** Per the General Development Standards, this project is entitled to have 250 residential units and up to 344,000 square feet of commercial retail space. The proposed project will include 250 residential units and 314,898 square feet of commercial retail space, and thus falls within the approved land use entitlements.
  - b. **Parking.** Parking will be provided per the requirements stated in Chapter 20.90 of the San Jose Municipal Code. For the commercial/retail component of the project, 1,170 parking spaces are required, and 1,211 parking spaces are being provided. Each residential units will have two covered spaces per unit.
  - c. **Setbacks.** The commercial buildings meet the following required setbacks: five foot front setback, five foot side setbacks, no setbacks for interior lots, and 10 foot rear setback. The residential units meet the required setbacks: five-foot front setbacks, three foot side setbacks, five-foot rear setbacks, and ten-foot rear setbacks along the west side of the project.
  - d. **Height.** No commercial building will exceed 60 feet in height, and no residential building will exceed the set height of 45 feet.
5. **Environmental Review.** An Addendum to the Evergreen East Hills Vision Strategy Environmental Impact Report (adopted December 12, 2006 by Council Resolution 73570), was prepared for the project under the provisions of the environmental review requirements the California Environmental Quality Act of 1970, as amended (CEQA), including the state and local implementing regulations. The CEQA Guidelines Section 15162 states that when an EIR has been certified, no subsequent EIR shall be prepared for that project unless the lead agency determines that either substantial changes are proposed to the project which will require major revisions to the previous EIR, substantial changes will occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR, or new information of substantial importance is available. The Addendum provided updated studies for the following areas: 1) Biotic Evaluation- burrowing owl habitat analysis and mitigation strategy and a tree survey; 2) Hazards and Hazardous Materials- Phase 1; and 3) Traffic Operations Analysis. The Addendum concluded that the implementation of the proposed Planned Development Rezoning would not result in any new significant impacts, impacts that are cumulatively considerable, or impacts that will directly or indirectly cause substantial adverse effects on human beings beyond those disclosed and evaluated in the Final EIR. The applicant will be required to pay HCP fees and comply with any future HCP conditions. The proposed project is also consistent with the City's Greenhouse Gas Reduction Strategy outlined in the General Plan.

## FINDINGS

The Director of Planning, Building and Code Enforcement concludes and finds, based on the analysis of the above facts with respect to the Planned Development Permit findings (Section 20.100.940), that:

1. The Planned Development Permit further the policies of the General Plan in that the proposed project will allow the construction of 314,898 square feet of commercial/retail space and 250 residential units. This mix of uses follow the intent of an Urban Village, as it incorporates a full range of uses that can address the daily needs of residents. The amount of retail that can be provided on this site has potential to provide a variety of amenities that residents will need on a daily basis. Additionally, this project is an infill development of a site that has long been vacant, which is consistent with the General Plan's goals of allowing growth in infill development areas to create a more complete community.
2. The Planned Development Permit conforms in all respects to the Planned Development Zoning of the property (File No. PDC10-022) in that the setbacks, height and uses conform to the Development Standards.
3. The interrelationship between the orientation, location, mass and scale of building volumes, and elevations of proposed buildings, structures and other uses on-site are appropriate, compatible and aesthetically harmonious, in that the project creates a walkable and connected neighborhood. The plans include public and private streets that use greenways and modified crossings to promote connectivity between existing neighborhoods and new the neighborhoods, the new proposed retail. The architecture for the residences closer to the retail center of the project is more urban, while the residences that abut the existing neighborhood promote continuity with the existing neighborhood. Overall, the project creates a neighborhood with urban form and high architectural quality buildings with compatible mass and scale.
4. An Addendum to the Evergreen East Hills Vision Strategy Environmental Impact Report (adopted December 12, 2006 by Council Resolution 73570), was prepared for the project under the provisions of the environmental review requirements the California Environmental Quality Act of 1970, as amended (CEQA), including the state and local implementing regulations. The CEQA Guidelines Section 15162 states that when an EIR has been certified, no subsequent EIR shall be prepared for that project unless the lead agency determines that either substantial changes are proposed to the project which will require major revisions to the previous EIR, substantial changes will occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR, or new information of substantial importance is available. The Addendum provided updated studies for the following areas: 1) Biotic Evaluation- burrowing owl habitat analysis and mitigation strategy and a tree survey; 2) Hazards and Hazardous Materials- Phase 1; and 3) Traffic Operations Analysis. The Addendum concluded that the implementation of the proposed Planned Development Rezoning would not result in any new significant impacts, impacts that are cumulatively considerable, or impacts that will directly or indirectly cause substantial adverse effects on human beings beyond those disclosed and evaluated in the Final EIR. The applicant will be required to pay HCP fees and comply with any future HCP conditions. The proposed project is also consistent with the City's Greenhouse Gas Reduction Strategy outlined in the General Plan.

The Director of Planning, Building, and Code Enforcement concludes and finds, based on the analysis of the above facts with respect to the Live Tree Removal findings (Section 13.32.100), that:

1. The location of the trees with respect to a proposed improvement unreasonably restricts the economic development of the parcel in question.
  - a. The ordinance-sized trees are located in areas that are either slated for new buildings, residential units, roads, sidewalks, or new common space areas. The removal of these trees is necessary so that the proposed project can be built. The project requires 359 replacement trees, which is included in the following conditions:
  - b. Pursuant to Section 13.32.080 of the Municipal Code, the request for a Tree Removal Permit may be included as part of an application for a Development Permit under the provisions of Title 20 of this Municipal Code. The Development Permit may serve as the Tree Removal Permit and be processed under the application, noticing, hearing and appeal provisions applicable to the Development Permit application, and no separate permit shall be required, so long as all of the substantive provisions and permit processing requirements of this Chapter 13.32 are met as a part of processing that Development Permit.

In accordance with the findings set forth above, a Planned Development Permit for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **approved**. The Director of Planning, Building, and Code Enforcement expressly declares that it would not have granted this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

**APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
  - a. Acceptance of the Permit by the applicant; and
  - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Permit shall automatically expire four years from and after the date of issuance hereof by said Director, if within such time period, a Building Permit has not been obtained or the use, if no Building Permit is required, has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this permit shall be deemed acceptance of all conditions specified in this permit and the applicant's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by

the “Building Code” shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San Jose Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.

4. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
5. **Conformance to Plans.** The development of the site shall conform to the approved Planned Development Permit plans entitled, “Evergreen Circle, Sets 1 and 2” dated October 21, 2015 on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 24), with the exception of any subsequently approved changes.
6. **Conformance with Approved Zoning.** All conditions of approval and required environmental mitigation measures from the previously approved Planned Development Zoning remain in effect (File No. PDC10-022).
7. **Use Authorization.** This permit authorizes the construction of 314,898 square feet of commercial/retail space, 250 single-family detached residences, and the removal of 134 trees.
8. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance, as defined above.
9. **Affordable Housing.** The project may be subject to the City’s Inclusionary Housing Ordinance, Policy, or Affordable Housing Impact Fee. If the project is subject to the referenced Ordinance, Policy or fee, an affordable housing agreement shall be executed by the City and Permittee and recorded against the entire Project prior to the approval of any final or parcel map or issuance of any building permit for the Project. If the Permittee is required to pay an impact fee, the fee shall be paid prior to the issuance of building permits. No Temporary Certificate of Occupancy, or Certificate of Occupancy, or Notice of Completion for any residential units will be issued until all requirements of the Inclusionary Housing Ordinance, Inclusionary Housing Policy and/or the Housing Impact Fee Resolution have been met.
10. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San Jose Municipal Code.



11. **Refuse.** All trash areas shall be effectively screened from view and covered, or self-contained weather tight compactor, and maintained in an orderly state to prevent water from entering into the garbage container. Trash areas shall be maintained in a manner to discourage illegal dumping.
12. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the approved plan set.
13. **Utilities.** All new on-site telephone, electrical, and other overhead service facilities shall be placed underground.
14. **Lower Silver Creek.** Any work surrounding Lower Silver Creek will require review and permitting by the District. In general, the site improvements must allow for the continued operation and maintenance of the pipeline. This would require that all structures and vegetation be located outside the District's easement to allow for access and repair/replacement of the pipe. Any improvements within this area must demonstrate that the pipeline is not adversely impacted. The site also has one abandoned well with an unknown location. The abandoned well should be located and properly destroyed for the protection of the groundwater.
15. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement, including job sites for projects under construction.
16. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage.
17. **Sign Design.** No signs are approved at this time. All proposed signs shall be subject to review and approval by the Director of Planning through a subsequent Permit Adjustment.
18. **Building and Property Maintenance.** The property owner or management company shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping.
19. **Lighting.** All new on-site, exterior, unroofed lighting shall conform to the City's Outdoor Lighting Policy and shall use fully cut-off and fully shielded, low-pressure sodium fixtures unless otherwise approved with this project. Lighting shall be designed, controlled and maintained so that no light source is visible from outside of the property.
20. **Perimeter Fencing.** Fence height and materials shall be provided as shown on the approved plans. Changes to the approved fencing shall require review by the Director of Planning, Building, and Code Enforcement.
21. **Colors and Materials.** All building colors and materials are to be those specified on the Approved Plan Set.
22. **Generators.** This permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators shall secure appropriate permits and shall conform to the regulations of Title 20 of the Municipal Code.
23. **Green Building.** Green Building Requirements for Tier 2 Non Residential Development ( $\geq 25,000$  square feet). This development is subject to the City's Green Building Ordinance for Private Sector New Construction. Prior to the issuance of any shell or complete building permits issued on or after September 8, 2009 for the construction of buildings approved through the scope of this permit, the applicant shall pay a Green Building Refundable Deposit in the amount of \$40,000 applicable to the gross square footage of said buildings

which are approved through this permit. The project must receive the minimum green building certification of LEED Silver. The request for refund of the Green Building Deposit together with green building certification evidence demonstrating the achievement of the green building standards indicated above shall be submitted within a year after the building permit expires or becomes final, unless a request for an extension is submitted to the Director of Planning, Building, and Code Enforcement in accordance with Section 17.84.305D of the Municipal Code.

24. **Reclaimed Water.** The project shall conform to Chapter 15.10 and 15.11 of the San José Municipal Code. The Code addresses the use of reclaimed water including the requirement that an irrigation system be designed to allow for the current and future use of reclaimed water, if available at the time of Building permit issuance, for all landscaped cumulative areas in excess of ten thousand (10,000) square feet.
25. **Tree Replacements.** There are 359 trees required to replace those removed as part of this project, in accordance with the City's standard replacement ratio.
26. **Permit Posting.** Prior to commencement of and during removal of any ordinance-size tree pursuant to this Permit, the applicant shall post on the site, or cause to be posted, a copy of this validated Permit in conformance with the following:
  - a. The copy of the Permit shall be a minimum size of 8.5 by 11.0 inches; shall be posted at each public street frontage within 2 feet of the public sidewalk or right-of-way; and shall be posted in such a manner that the Permit is readable from the public sidewalk or right-of-way; or
  - b. If the site does not have a public street frontage, a copy of the Permit shall be posted at a location where the Permit is readable from a common access driveway or roadway.
27. **Presentation of Permit.** During removal of any ordinance-size tree pursuant to this Permit, the applicant shall maintain the validated Permit on the site and present it immediately upon request by the Director of Planning, Building and Code Enforcement, Police Officers or their designee.
28. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 3 of Chapter 15.11 of Title 15 of the San José Municipal Code, Water Efficient landscape Standards for New and Rehabilitated Landscaping.
29. **Irrigation Standards.** The applicant shall install an adequately sized irrigation distribution system with automatic controllers in all areas to be landscaped that conforms to the Zonal Irrigation Plan in the Approved Plan Set. The design of the system shall be approved and stamped by a California Registered Landscape Architect.
30. **Certification.** Pursuant to San José Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified professionals and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
31. **Conformance to Mitigation Measures.** This project shall conform to all applicable Mitigation Measures

**a. Air Quality**

- i. MM 4.4-16 New bus stops shall be constructed at convenient locations with pedestrian access to the project sites. Pullouts will be designed so that normal traffic flow on arterial roadways would not be impeded when buses are pulled over to serve riders.
- ii. MM 4.4-17 Bicycle amenities shall be provided on each of the EEHVS opportunity sites. Each site will be reviewed and appropriate bicycle amenities shall be included. As appropriate, this shall include secure bicycle parking for office and retail employees, bicycle racks for retail customers and bike lane connections throughout each project site.
- iii. MM 4.4-18 All buildings shall include outdoor electrical outlets so as to encourage the use of electrical landscape maintenance equipment.

**b. Biological Resources**

- i. MM 4.6-16 A qualified ornithologist shall conduct a protocol-level, pre-construction survey for nesting raptors onsite not more than 30 days prior to the onset of ground disturbance or tree removal, if disturbance is to occur during the breeding season (Feb. 1 to Aug. 31).
- ii. MM 4.6-17 If a nesting raptor is detected, an appropriate construction buffer shall be established. Actual size of buffer will be determined by the ornithologist and will depend on species, topography, and type of construction activity that would occur in the vicinity of the nest but would be a minimum of 250 feet.
- iii. MM 4.6-18 A report summarizing the results of the pre-construction survey and subsequent efforts to protect nesting raptors (if found to be present) shall be submitted to the Director of PBCE.
- iv. MM 4.6-1 The site design and PD Permit approval, as well as any public improvements, shall incorporate preservation of existing trees to the maximum extent practicable, to the satisfaction of the City's Director of Planning, Building, and Code Enforcement (PBCE).
- v. MM 4.6-3 The species and exact number of trees to be planted on the site during the construction phase shall be determined in consultation with the City Arborist and to the satisfaction of the Director of the Department of PBCE.

**c. Cultural Resources**

- i. MM 4.5-1 Prior to the start of construction, the two areas encompassed by CA-SCL-215 and CASCL-327, including a sufficient buffer determined by an archaeologist, shall undergo additional testing. The delineation of the areas to be tested shall be based upon the figures and information contained in the following report: "Subsurface Archaeological Testing: Evergreen Smart Growth Strategy Study Area (Arcadia Homes Site)", Holman & Associates, December 2004. Testing shall consist of controlled mechanical stripping, under the direction of a qualified archaeologist, within the two delineated areas.
- ii. Controlled stripping shall continue until all archaeological material is removed, or to the maximum depth construction impacts will occur in a given area. Once the controlled stripping has been completed, the archaeologist shall determine whether any monitoring of actual construction is warranted.



- iii. If suspected human bone or important archaeological features are encountered, work in the immediate area of the discovery shall be halted. The finds shall be exposed, recorded, and removed by an archaeologist. Any human remains encountered shall be handled in accordance with State law and any applicable Native American agreements.
- iv. All human remains and burial-associated artifacts shall be repatriated in a location that will not be subject to further disturbance. Using professionally-accepted methods, all archaeological resources shall be catalogued and analyzed and a report summarizing such work shall be prepared and provided to the City's Director of Planning, Building, & Code Enforcement.

**d. Geology & Soils**

- i. MM 4.7-1 A detailed, design-level geotechnical investigation for the project shall be completed by the applicant and shall be reviewed and approved by the City Geologist prior to Public Works clearance and issuance of a PD Permit for any phase of the project. The geotechnical investigation shall identify and describe the specific engineering practices to be used to reduce or avoid potential geologic hazards on the site.

**e. Noise**

- i. MM 4.3-4 Where pile drivers are needed, the use of multiple-pile drivers shall be considered in order to expedite construction. Although noise levels generated by multiple pile drivers would be higher than the noise generated by a single pile driver, the total duration of pile driving activities would be reduced.
- ii. MM 4.3-5 Temporary noise control blanket barriers shall shroud pile drivers or be erected in a manner to shield the adjacent land uses. Such noise control blanket barriers can be rented and quickly erected.
- iii. MM 4.3-6 Where feasible, foundation pile holes shall be pre-drilled to minimize the number of impacts required to seat the pile. Pre-drilling foundation pile holes is a standard construction noise control technique. Pre-drilling reduces the number of blows required to seat the pile.
- iv. MM 4.3-8 Consideration shall be given to locating the commercial uses closest to Quimby Road and Capitol Expressway. This would allow the commercial uses to shield the more sensitive uses (i.e., residences and parks) from elevated traffic noise levels.
- v. MM 4.3-9 All outdoor use areas associated with the proposed residences shall be designed and sited so that noise levels do not exceed a Ldn of 60 dBA. This will be accomplished through site design (e.g., creating sufficient buffers/setbacks between noise sources and these areas, shielding such areas from noise sources by locating them behind buildings, etc.) and/or constructing soundwalls.
- vi. MM 4.3-10 In the event that residential patios are constructed in locations where the Ldn is not reduced to 60 dBA by the steps described in the previous measure, such patios shall be designed to include acoustically-effective (i.e., without cracks, gaps, openings, etc.) fencing.

- vii. MM 4.3-11 All residences, both single- and multi-family, shall be designed to achieve an interior noise level of 45 dBA Ldn. In some cases, this will require residents to keep windows closed, which will mandate the inclusion of forced-air mechanical ventilation systems. Compliance with this measure shall be demonstrated through the preparation of a detailed acoustical analysis, such analysis to be reviewed and approved by the City.
- viii. MM 4.3-12 The project shall be designed so that noise from the commercial uses will not exceed a Ldn of 55 dBA at the property lines of existing/future residences. This will be accomplished by proper site design (e.g., setbacks, locating loading docks away from residences).

**f. Public Services**

- i. MM 5.3-1 All residential development shall comply with state law regarding the payment of school impact fees.
- ii. MM 5.4-1 All residential development shall comply with the requirements of the City's PIO and PDO ordinances.
- iii. MM 4.13-2 The developer shall provide payment of the TIF to the City prior to the issuance of building permits.

**32. Building Division Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:

- a. **Construction Plans.** This permit file number, PD15-013, shall be printed on all construction plans submitted to the Building Division.
- b. **Americans with Disabilities Act.** The applicant shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
- c. **Construction Plan Conformance.** A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.

**33. Recycling.** Scrap construction and demolition material shall be recycled. Integrated Waste Management staff at (408) 535-8550 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.

**34. Fire Flow.** Required fire flow for the site is calculated using CFC Appendix B, or as otherwise approved in writing by the Fire Chief. A 50% reduction in required fire flow may be authorized for sprinklered buildings containing light hazard occupancies. A 25% reduction in required fire flow may be authorized for sprinklered buildings containing ordinary hazard occupancies. No reduction is provided for unsprinklered or extra hazard occupancy buildings.

**35. Fire Hydrants.** Public (off-site) and private (on-site) fire hydrants shall be provided as approved and at the exact location specified by the Fire Protection Engineering Section of the Fire Department to the satisfaction of the Fire Chief. The number and distribution of fire hydrants shall be based on CFC Table C105.1 (no reduction allowed for fire flow requirement).

36. **Fire Hydrants and Driveways.** All fire hydrants shall be installed at least 10 feet from all driveways, with final locations satisfactory to the Fire Chief.
37. **Fire Lanes.** Fire lanes, suitably designated "FIRE LANE-NO PARKING," shall be provided as required by the Fire Department.
38. **Fire Department Connections.** All fire department connections shall be located within 100 feet from a standard public fire hydrant. All alternate means of protections shall be reviewed by the Fire Department. The public fire hydrant(s) shall be located on the same frontage as all fire service connections.
39. **Fire Department Connections.** Fire sprinkler and standpipe fire department connections (FDC) serving the same building shall be located directly adjacent to each other. Buildings in excess of 200 feet long and or having frontage on multiple streets shall have multiple FDCs. The Locations shall be approved during plan check by the San José Fire Department and shall be depicted on the riser key plan(s).
40. **Access Roads.** Approved access road(s) and hydrant(s) shall be provided once wood framing is available at site or provide an alternate means of water suppression subject to the approval of the Fire Department. Obtain permit and pay applicable fees prior to the installation. Contact the San José Fire Department's Fire Protection Systems Section at (408) 277-8756.
41. **Lock Boxes.** The project development shall provide lock boxes to the satisfaction of the Chief Building Official and Fire Chief.
42. **Emergency Vehicle Access.** Width, length, and grade of the fire apparatus access roads, streets, and avenues shall be identified on project plans and submitted to the Fire Chief for approval. Every portion of all building exterior walls shall be within 150 feet of an access road. To the satisfaction of the Fire Chief, the fire access shall include the following:
  - a. An approved all weather surface;
  - b. Access road(s) that are at least 20 feet wide and have a minimum 13-foot 6-inch vertical clearance;
  - c. Load bearing designs that are maintained to support the loads of fire apparatus of at least 75,000 pounds;
  - d. Maintain a minimum inside turning radius of 30 feet and an outside turning radius of 50 feet;
  - e. Access roads designed with approved provisions for the turning around of fire apparatus if it has dead ends and is in excess of 150 feet;
  - f. Maximum grade of 15%;
  - g. A second point of access shall be required when a fire apparatus road exceeds 1,000 feet;
  - h. Curbs shall required to be painted red and marked as "Fire Lane - No Parking" under the following conditions: (show exact locations on plan);
  - i. Roads, streets, avenues, and all other roadway designations that are 20 feet to less than 26 feet wide measured from face-of-curb to face-of-curb shall have curbs on both sides of the road painted and marked
  - j. Roads, streets, avenues, and all other roadway designations that are 26 feet to less than 32 feet wide measured from face-of-curb to face-of-curb shall have one curb painted and marked

43. **Public Works Clearance.** Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following: <http://www.sanjoseca.gov/index.aspx?nid=2246>.

- a. **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
- b. **Transportation:**
  - i. This project is located in the Evergreen East Hills Development Policy (EEHDP) area and is required to pay a Traffic Impact Fee (TIF). For the residential land use, the project has previous entitlements for 217 residential unit under the Benefit Assessment District 91-209SJ. The 2015 TIF per residential unit is \$14,786 and per 1,000 square feet of commercial or office is \$12,860. This fee is subject to an annual escalation on January 1<sup>st</sup> per the Engineering News-Record Construction Cost Index for San Francisco. We conclude that with the payment of the EEHDP traffic impact fee, the subject project will be in conformance with the Evergreen East Hills Development Policy and a determination for a negative declaration can be made with respect to traffic impacts.
  - ii. A Traffic Operational Analysis by Hexagon Transportation Consultants, Inc. dated October 7, 2011 has been reviewed. The project shall adhere to the recommendations in the analysis as it relates to traffic operations.
- c. **Grading/Geology:**
  - i. A grading permit is required prior to the issuance of a Public Works Clearance.
  - ii. All on-site storm drainage conveyance facilities and earth retaining structures 4' foot in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 2010 California Plumbing Code or submit a stamped and signed alternate engineered design for Public Works discretionary approval and should be designed to convey a 10 year storm event.
  - iii. If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.
  - iv. Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.

- v. The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.
- d. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures, source controls and numerically-sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges.
  - i. The project's Stormwater Control Plan and numeric sizing calculations has been reviewed. At implementation stage the final Stormwater Control Plan and numeric sizing calculations will be reviewed and approved.
  - ii. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
  - iii. Sizing and design of pumps for stormwater will be reviewed and approved during implementation stage.
  - iv. Include maintenance information for the pumps in the final Stormwater Control Plan during implementation stage.
  - v. A post construction Final Report is required by the Director of Public Works from a Civil Engineer retained by the owner to observe the installation of the BMPs and stating that all post construction storm water pollution control BMPs have been installed as indicated in the approved plans and all significant changes have been reviewed and approved in advance by the Department of Public Works.
- e. **Stormwater Peak Flow Control Measures:** The project is located in a non-Hydromodification Management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).
- f. **Flood: Zone D:** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.
- g. **Sewage Fees:**
  - i. In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
  - ii. Existing sanitary sewer on proposed B Street (public) between Meadowfair Park and Brahms Avenue will be located within B Street. Existing sanitary sewer easement which are outside B Street should remain.
- h. **Storm:**
  - i. Inspect and provide information on the condition and debris settlement on the existing 72" pipe.



- ii. If debris is found in the existing 72" pipe, a debris settlement structure shall be constructed. Design and location of the debris settlement structure will be determined at the implementation stage.
- i. **Municipal Water:** In accordance with City Ordinance #23975, Major Water Facilities Fee is due and payable. Contact Nicole Harvie at (408) 794-6777 for further information.
- j. **Parks:** This residential project is subject to either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San Jose Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San Jose Municipal Code) for the dedication of land and/or payment of fees in-lieu of dedication of land for public park and/or recreational purposes under the formula contained within in the Subject Chapter and the Associated Fees and Credit Resolutions.
- k. **Assessments:**
  - i. A portion of this project is located within the boundaries of Benefit Assessment District 91-209SJ, which specifies the number of residential units allocated to undeveloped properties in the Evergreen Area based on the Greater Evergreen traffic study performed in 1992. According to the district, a total of 217 residential units have been allocated to the following parcels: Assessor's Parcel Numbers 670-29-017 and 670-29-020 have allocations of 67 units and 150 units, respectively. The assessment is due at the first discretionary act towards development and is adjusted annually each February 1st based on the Construction Cost Index for the San Francisco Bay Area. This proposal triggers the requirement for payment of the assessment, which is \$748,733.52 and must be paid prior to tract or final map approval.
  - ii. Enhancements installed by this project in the public right-of-way above City Type 1 standards will require some financing mechanism, such as a maintenance district or community facilities district, to accommodate additional maintenance needs.
- l. **Street Improvements:**
  - i. The proposed intersection at the future public street (A Street) and Quimby Road shall require the installation of new traffic signal.
  - ii. A roundabout design shall be implemented to facilitate the traffic flow internally within the commercial / retail portion of the project site and as a result shall not cause traffic to backup onto Capitol Expressway. The minimum radius of the roundabout shall be 90 feet. Roundabout design will be finalized during the street improvement plan stage.
  - iii. Evergreen Place is 96' right-of-way with 2 travel lanes in each direction. No west bound right turn lane on Evergreen Place to Retail C. Evergreen Place design will be finalized during the improvement plan stage.
  - iv. The following are the new public street sections on Sheet 3.7:
    - 1) Section A, A Street (North) between Quimby Road and North Loop, 96' right-of-way, 1 lane in each direction. 8'sw-7'ls-7'prkg-6'bk-3'bfr-11'ln-12md-11'ln-3'bfr-6'bk-7'prkg-5'ls-10'sw
    - 2) Section B, A Street (South) between North Loop and 3<sup>rd</sup> Street, 66" right-of-way, 1 lane in each direction. 7'sw – 7'ls – 34' curb to curb – 6'ls – 12'sw

- 3) Section C, North Loop and South Loop between Evergreen Place and A Street, 72' right-of-way, 1 lane in each direction. 7'sw – 5'ls – 7'prkg – 6'bk – 10'ln – 10'ln – 6'bk – 7'prkg – 5'ls – 7'sw
- 4) Section D, B Street between A Street and 3<sup>rd</sup> Street, 54' right-of-way, 1 lane in each direction. 4'sw – 5'ls – 34' curb to curb – 5'ls – 4'sw
- 5) Section E, 3<sup>rd</sup> Street between A Street and B Street, 50' right-of-way 1 lane in each direction. 4'sw – 5'ls – 34' curb to curb – 7'ls with landing
- v. The cycle track on Evergreen Place and on the western perimeter of the traffic circle should be raised, at the same level as the curb. Transition between the raised cycle track and bike lanes should be with a slope of 1:12.
- vi. Pedestrian and cycle track crossing in the traffic circle should be table top, transition slope between table top crossing and travel lanes should be 1:12.
- vii. The cycle track in the traffic circle should be one way (counterclockwise direction).
- viii. Construct City standard driveway for commercial access to public streets.
- ix. Quimby Road sidewalk along project frontage should be 12' attached with tree wells at the back of curb.
- x. Close unused driveway cut(s).
- xi. Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
- xii. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
- xiii. The Developer is working with the City to acquire the right-of-way needed for the Capitol Expressway improvements.
- xiv. An encroachment permit from the County of Santa Clara is required for the improvements on Capitol Expressway prior to the issuance of the City's public improvement permit.
- xv. Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.
- m. **SNI:** This project is located within the West Evergreen SNI area. Public improvements shall conform to the approved EIR and neighborhood improvement plan.
- n. **Electrical:** Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
- o. **Street Trees:**
  - i. The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.

- ii. Show all existing trees by species and diameter that are to be retained or removed. Obtain a street tree removal permit for any street trees that are over 6 feet in height that are proposed to be removed.

**p. Private Streets:**

- i. Per Common Interest Development (CID) Ordinance, all common infrastructure improvements shall be designed and constructed in accordance with the current CID standards. Any deviation from current CID standards will be considered and coordinated with DOT during implementation stage.
  - ii. The following are the new private street sections on Sheet 3.7
    - 1) Section G, 1<sup>st</sup> Street, private street width is 43', curb to curb width of 27'. Parking on 1 side of the street.
    - 2) Section H, 2<sup>nd</sup> Street, private street width is 50', curb to curb width of 34'. Parking on both sides of the street.
    - 3) Section I, 3<sup>rd</sup> Street, private street width is 48', curb to curb width of 34'. Parking on both sides of the street.
    - 4) Section J, C Street, private street width is 43', curb to curb width is 27'. Parking on 1 side of the street.
  - iii. Final private street improvement plans may be required to the satisfaction of the Director of Public Works. The plan set includes details of private infrastructure improvements. The details are shown for information only; final design shall require the approval of the Director of Public Works.
- q. Referrals:** This project should be referred to the County Roads and Airports Department and Santa Clara Valley Water District.
- 44. Revocation, Suspension, Modification.** This Planned Development Permit may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
- a. A violation of any conditions of the Planned Development Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
  - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
  - c. The use as presently conducted creates a nuisance.

**APPROVED** on this **18<sup>th</sup>** day of **November, 2015**.

Harry Freitas, Director  
Planning, Building, and Code Enforcement

Deputy